

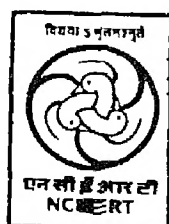
The Historic Trial of Mahatma Gandhi

Edited

with a background essay

by

Mulk Raj Anand



राष्ट्रीय शैक्षिक अनुसंधान और प्रशिक्षण परिषद्
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Foreword

The present publication is the first in a new series of popular books which the NCERT is bringing out. The series is called the Lotus Books. It aims at introducing young readers to the world of knowledge by making available to them low-priced books on history, science, culture, problems of contemporary India and the world, and lives of great men and women. Dr Mulk Raj Anand who has prepared this book is also the inspiration behind the entire series. In planning the series, we have received the help of eminent scholars and educators including Professor D.S. Kothari.

The Historic Trial of Mahatma Gandhi is about one of the most important trials in the history of our struggle for freedom. The trial took place after the first great mass struggle of the people of India under Mahatma Gandhi's leadership had been suspended. Gandhiji was arrested, tried, convicted for sedition and imprisoned, about a month after the movement had been suspended, following violent incident at Chauri Chaura.

The book provides an authentic account of the trial along with the text of Gandhiji's writings which were produced as evidence by the British prosecutor. Dr Anand has also traced the developments preceding the trial in a background essay and placed the trial in the wider perspective of the struggle for freedom and Gandhiji's role in it.

Gandhiji's articles and the statement made by him at

the trial, which have been included here, are inspiring documents which would convey to young readers the spirit of defiance of the foreign rule which Gandhiji gave to our struggle for freedom.

The Council is grateful to Dr Mulk Raj Anand for preparing this inspiring book and for his help and guidance in planning the series.

P.L. MALHOTRA

Director

New Delhi

18 January 1987

National Council of Educational
Research and Training

Preface

One of the most dramatic episodes in the story of India's struggle for freedom was the trial of Mahatma Gandhi on the charge of inciting 'Disaffection' against the 'British Government by law established', through articles in the magazine *Young India*, of which he was Editor.

Those articles were: 'Tampering with Loyalty', 29 September 1921; 'The Puzzle and Its Solution', 15 December 1921; 'Shaking the Manes', 23 February 1922.

Mahatma Gandhi pleaded guilty to the charge of inspiring 'Disaffection'. He admitted that such writings, as he had done, may incite some people to violent actions against the 'Government by law constituted', as, indeed, his words had done in Chauri Chaura in U.P., in Bombay and Madras. But, he added, that he had no 'affection' left for a government, which was persisting in its oppression of people, and in its exploitation of them, thus causing utter poverty, untold misery and despair. He had, he said, cooperated with the British Empire by running an ambulance in the Boer War, in South Africa, and again, at the time of the revolt of the Zulu tribe. And he had hoped that, after the shooting on an unarmed crowd, without warning, by General Dyer in Jallianwala Bagh, Amritsar, and the condemnation of the act, all over India, the Imperial Government might relent in its repressive rule. But he saw no signs of relaxation even after the Montagu-Chelmsford reforms, which had given

some political concessions. So he confessed that 'to preach disaffection towards the existing system of Government has become almost a passion with me'. He confessed: 'It is the most painful duty with me, but I have to discharge that duty knowing the responsibility that rests upon my shoulders. And I wish to endorse all the blame' for the violence that occurred in Chauri Chaura, Bombay and Madras, where the non-violent campaign he had launched, had turned violent. 'I knew that I was playing with fire. I ran the risk. And if I am set free I would still do the same.... I would have failed in my duty, if I did not say what I said here just now. . . . I wanted to avoid violence. Non-violence is the first article of my creed. It is also the last article of my creed. I had either to submit to a system which I considered had done irreparable harm to my country, or incur the risk of the mad fury of my people bursting forth when they understood the truth from my lips'. He said he was ready 'to accept the highest penalty that can be inflicted upon me. . . .'

The judge reluctantly convicted him to six years in jail. And he gave the lighter punishment of one year imprisonment and a fine of rupees one thousand to Shankarlal Banker who was the printer.

Srimati Sarojini Naidu, who was present throughout the trial, described the scene thus: 'A convict and a criminal in the eyes of the law! Nevertheless, the entire court rose in an act of spontaneous homage when Mahatma Gandhi entered — a frail, serene, indomitable figure in a coarse and scanty loin cloth. . . .'

And after pronouncing judgement, the judge bowed before the Mahatma as he went out of court. The military on guard were deferential with heads bent before him, in spite of the shouts of 'Mahatma Gandhi ki jai' from the Mahatma's followers nearby.

Another contemporary who witnessed the trial has written:

It is impossible to describe the atmosphere in that

hall at the time he was reading, and a few minutes after he (Mahatma Gandhi) had finished his statement. Every word of it was eagerly followed by the whole audience. The judge, the Advocate-General, the Military Officer and the political leaders all alike strained their ears and were all attention to hear the memorable statement. Gandhiji took fifteen minutes to read this statement. One could perceive the atmosphere of the hall changing every minute. The historic production was the Master's own. The ennobling confessions, the convincing logic, the masterly diction, the elevated thoughts and the inspiring tone, all produced instantaneous effect on the audience, including the judge and the prosecutor. For a minute, every one wondered who was on trial — whether Gandhi (was) before a British judge or whether it was the British Government before God and Humanity.

One cannot help recalling a similar trial, which happened in the 4th century B.C. when Socrates was arraigned in Athens for corrupting the youth of Athens and he confessed that he was guilty and yet not guilty.

The similarity of attitudes of Socrates and Gandhi was noticed by no less a person than the then Chief Justice of the Gujarat High Court, Mr. Justice J.M. Shelat. He wrote:

Barring the trial of Socrates, there is perhaps no trial in the history of mankind comparable to that of Gandhiji, which stimulated so much interest and whose influence in the life of humanity has been so profound, involving, as it did, the issue of morality versus law. It is but natural that the trial of Gandhiji must immediately bring to mind that kindred trial involved a kindred issue.

The similarity of attitude adopted by Socrates and Gandhiji towards the tribunals which tried them, is at once manifest. For each placed truth

above the law and sought the punishment which the branch of law warranted.

The trial of Gandhiji is of profound significance in political and juristic philosophy, because, like that of Socrates, it concerns itself with the conflict between the issue of allegiance to the state on the one hand, and morality, as the person concerned believes in it, with all his purposeful sincerity.

Equally, it is of profound significance in the history of mankind, and for the world, as it has hardly seen such a struggle for truth with such an amount of renunciation.

Indeed, this trial brought the central issue, whether men can be governed by the law of the jungle (where the lion prevails by the force of his sinews), is right, or the weak, who have no power to resist but only to protest with their cries of pain.

In retrospect, we feel that in the hey-day of the empire, the British realised that Mahatma Gandhi's soul-force could stand up to the armed power of their army and police. Millions of the Mahatma's followers had to suffer the blows of lathis, grape-shot and confinement in jails, before the representatives of the King Emperor would admit that they cannot keep an awakened people in a vast prison.

In fact, it was only when the British Imperial power was dealt devastating blows by the then emergent rivals for *lebensraum* (living space), the Germans, the would-be imperialists, by Italian Fascists, and by Japanese militarists, that the arrogant Winston Churchill sent a mission, in the middle of the Second World War, to offer some measures of self-government to India. Even then the King Emperor did not want to yield the 'brightest jewel in his crown'. Mahatma Gandhi was convinced, after several parleys, that the Imperial power wanted 'to hold what they had'. And he decided to launch the 'Quit-India movement'. After being defeated on various fronts

in the East and West, and only recovering with the help of the Soviet and American armies, the British realised their folly, partly through the protests of their own soldiers, who had been in action on the eastern front, that they must withdraw. Of course, in chagrin, and from the old habit of ruling by *divide et impera*, to which they had become addicted, they used Hindu-Muslim communal tensions, partly incipient among us, but mostly excited by the Government. They partitioned the subcontinent into two sovereign states, India and Pakistan. So, when freedom came, it was what has been called 'truncated freedom'.

Mahatma Gandhi did not accept the partition at heart. But he was generous enough to give to Pakistan what was its due, once his companions had accepted the new Islamic state. And he advised India to pay Pakistan its share of the exchequer, as a matter of goodwill.

One of those fanatics from among the Hindu youth, who despised the Mahatma's belief in non-violence, and accused him of partiality to Muslims, shot him when Gandhiji came to his prayer meeting on the evening of 30 January 1948.

Mahatma Gandhi faced the last trial of his life with a whispered prayer.

The account of the first historic trial is offered to the young, born after the Mahatma's martyrdom, from deep reverence for a man, who converted whole generations to struggle against wrongs, by passive resistance. Not many succeeded in following Truth and Non-violence as he did. But millions of the weak took the blows and acquired resilience of character. And they persisted in non-cooperation with the 'Satanic Sarkar', until the aliens actually had to quit India.

Acknowledgements

In the preparation of this document, I have relied mainly on an anonymous account by an eye-witness of the trial, printed privately in 1922.

This account has, however, been checked up with a rendering by Shri B.R. Agarwal, printed in the Popular Jurist magazine.

A fuller treatment of the ethical and political implications of this case was made by the English publicist, Francis Watson, in his book Trial of Gandhi. Mr Watson did not, however, give a verbatim report of the proceedings against Mahatma Gandhi.

I have received advice from Shri B.R. Agarwal, without which this legal document could not have been got together. Shri Shashipal Shankar B.A., LL.B. helped with the research.

MULK RAJ ANAND

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*Dedicated to the immortal memory
of our teacher, guide and liberator*

Mahatma Gandhi

The Historic Trial of Mahatma Gandhi

Section One

*M.K. Gandhi's conversion from
a Brown Englishman Barrister-
at-Law to a non-violent protester
against British Government's
misrule in India*

On 2 October 1869, in Porbunder, on the west coast of Gujarat, was born a child, who was to become the 'father of the Indian nation'. He was named Mohandas and later his father's name Karamchand Gandhi was added. So he came to be known throughout his life as Mohandas Karamchand Gandhi. His good deeds brought him the title of Mahatma (great soul) from the people.

His father, Karamchand was the Diwan of the ruler of Porbunder, later of the principalities of Rajkot and Wankaner, small native states under small Rajas. Being the youngest son of the family, he was affectionately called 'Mohania' and brought up indulgently by his devout mother and orthodox father.

He went to Alfred High School in Rajkot. He was a shy boy. But he was honest like his mother. And he learnt to be obedient to the elders in the tradition of the Indian family.

At school, however, he saw other boys doing all kinds of mischief. So like them, he began to smoke cigarettes.

And, encouraged by another young boy, he stole money to pay for his pranks. Also, he was tempted to eat meat by another classmate, which was a sin according to his vegetarian father and mother.

As the orthodox elders harshly cautioned him against straying into bad areas, he and a friend tried to commit suicide, by eating *Dhatura*, a poisonous jungle weed. They became frightened that they might be discovered. So they decided not to take the poison any more, and returned to become obedient sons.

At the age of twelve, his family married him off to a young girl of his age name Kasturbai, from a modest family. He behaved like a Hindu husband, demanding duties from her as his wedded wife. Later, he confessed to his wrong doings and he began to be a dutiful and a loving husband and son.

The temptation to eat meat had come from the talk of the boys. They said the British had conquered India because they ate flesh and drank liquor, and were strong in body.

On leaving school, Mohandas realised that, apart from eating meat and drinking liquor, the British cultivated knowledge. And he wanted to go to London to learn the things which had made them prevail in their vast Empire.

The family was against this adventure, because he might be spoilt, by dressing smartly, drinking wine, kissing women and eating meat. He took a vow not to touch liquor, look at women with desire, or eat meat. And he left Bombay on 4 September 1888, dressed in an English style suit, with enough nuts and sweets and fruits to last out till the end of the voyage. He was already the father of a son called Harilal, before he went to London.

In England, though he dressed like the English, sometimes with a top hat and in a frock coat, with hard collar and bow tie, he ate in vegetarian restaurants and

made friends with some good Englishmen. He went to a vegetarian conference at Portsmouth in 1890. He also took lessons in English elocution. And he read the books of the utilitarians, Jeremy Bentham and John Stuart Mill, as also of John Ruskin, the moralist.

The influence of vegetarians on young Gandhi was decisive. Because it meant that he would not take any part in killing. He heard that Leo Tolstoy in Russia had blamed the French for spending money on the Eiffel Tower. Gandhi also decided not to be attracted by the outward show of European splendour.

When he went to Paris he visited the churches, not to worship mere marble statues, but to revere the divinity of the figures of Christ and Virgin Mary.

He had joined Inner Temple to study law. As he was a diligent student he became a barrister on 10 June 1891.

By the time he left London he had realised that though he had learnt much from the English, he could only be an imitation brown Englishman, because the English regarded Indians as inferior. He had read the *Bhagavad Gita* and had already adopted the philosophy: 'to live in action'.

* * *

On reaching back home, in Rajkot, Mohandas began to practise law as a junior lawyer without much success. He thought he would follow in his father's footsteps and become a *diwan* in some state. But such a job could only come as a favour from the British Political Agent. His brother, Laxmidas, encouraged him to go and see the Englishman. The Political Agent snubbed him and asked him to get out.

Gandhi wanted to plead with the Englishman, but the Agent thrust him out of the room. This insult, said Gandhi later in his autobiography, 'changed the course of my entire life'.

He decided to leave Rajkot.

Just then a chance came his way. A Muslim family in Porbunder asked him to go to South Africa as their lawyer. Another son named Manilal had been born to Kasturbai on 28 October 1892, but he left his wife and two children behind and sailed for Durban, reaching there in May 1893.

He had met, before his departure, a poet named Raychand Bhai in Bombay. An upright man of knowledge and character, the poet had impressed him with his integrity. So Mohandas decided that 'speaking the truth was the most important thing in life'.

* * *

On reaching Africa, he found that he would have to suffer if he spoke the truth.

Of course, he had gone there to argue a case on behalf of the businessman, Dada Abdullah Seth, to earn a little money, and to come back home. He was still wearing the frock coat, black trousers and polished black shoes of the barrister. Only he wore a turban on his head.

He soon found that all Indians were called *coolies* by the whites in South Africa. And both the native blacks and the Indian browns were looked down upon. They were not allowed to enter the white man's areas. Indian Muslims, who called themselves Arabs, could wear a turban, but a Hindu was not allowed to wear a turban.

When barrister M.K. Gandhi went to court with the turban on his head, the magistrate ordered him to remove it. Gandhi did not do so but left the court. He began to wear an English hat. He was told that only black waiters were allowed to wear a hat. But he persisted.

His client Dada Abdullah wanted him to go to Pretoria, the capital of Transvaal, to argue the case. He bought him a first class ticket for the overnight journey. At a place called Maritzburg, a white man came into the

compartment, saw the brown Gandhi, went away and came back with two railway officers. They told Gandhi that he should go to a third class compartment. The British-trained barrister said that he had a first class ticket and would not move. The railway officers brought a policeman who forcibly removed him and his luggage onto the platform. Gandhi did not go into a third class compartment and spent the night in the cold waiting room at the station. His overcoat was in his trunk, which the railway authority held. He brooded on his situation all night, whether he should go back to India, or protest against the colour discrimination. He decided that it would be cowardly to return.

This incident was one of the decisive events in his life.

The next day he met some Indians. They told him to accept the situation and say no more about it. He was not sure they were right, but he went on to Pretoria. There was a stagecoach journey to Johannesburg where he was to argue the case. The white man in the coach asked him to ride outside, with the driver. Gandhi did not want to make a fuss and sat next to the driver. He asked the white man why he could not go inside the coach. Whereupon this gentleman tried to push him out even from the driver's seat. But some other passengers intervened and he was allowed to ride.

On his arrival at Johannesburg he could not get a room in a hotel. The Indians told him that they did not mind insults, because they were here to make money. Things were worse in Johannesburg than in Durban. In Pretoria, an American negro took him to a white man's hotel, where he was allowed to stay, except that he was to take meals in his own room.

Gandhi moved into a private home.

During his stay to argue the case Gandhi made friends with some white Christian priests. They tried to convert him and told him that he would find redemption

from the consequences of his sin, if he became a Christian. Gandhi answered: 'I want to be redeemed from sin itself.'

He found that his client Dada Abdullah Seth was a cousin of Tyeb Seth, the man whom he was suing. The cost of the law suit, which went on for a year, was ruining both parties. Gandhi advised them: 'Why not settle through an arbitrator'. They agreed. The case went in favour of Dada Abdullah. Tyeb Seth had to pay £ 27,000 for cost. This would have made him bankrupt. Gandhi persuaded Dada Abdullah to get paid in instalments over a longer period.

He was now convinced that a settlement of all disputes out of court was always preferable. After the law suit was settled, he returned to Durban and prepared to sail for home. His associates offered him a party.

During the gathering, an Indian gave him the newspaper *Natal Mercury*, in which there was a news item that the Natal government wanted to bring in a bill to deprive Indians of the right to elect members to the legislature. Gandhi asked them to resist this bill. All his friends said they would be helpless without him.

They asked him not to go away. He said he would stay for a month. But he was to stay for twenty years to fight for the rights of the Indians to be human and equal to the whites.

The Indians had come to South Africa as indentured labourers. They were allowed to stay for five years. They were given food and lodging. And a few shillings a month in the first year, and an extra shilling a month a year after. After five years the contractor paid their fare back to India. If they wished to stay, the same terms were offered to them as free labourers.

In 1894, the conditions of labour were changed. If the labourer wanted to stay as a free man, he could not do so. He would remain a serf forever and pay an annual tax of £ 3 for himself and for each member of his family.

Gandhi took up the case for the 50,000 indentured labourers. And, from now on he struggled on behalf of the rights of 'semi-barbarous Asiatics' as the Indians were called. Also he practised law. He tried to persuade the whites in pamphlets and articles, against racial discrimination.

He became so involved in the movement he had started that he decided to come home and fetch his family. During this visit to India, he travelled to various cities, and tried to get support for the cause of the Indians in South Africa.

The news of his protest meetings reached the South African press. So, when he returned to Durban, the ship was kept first in quarantine and then asked to return to India.

At last, when after much agitation the ship was allowed to dock, Gandhi and his friends were stoned by the white mob, as they entered the town.

Some of his white friends rescued him.

His campaign in India on behalf of the *coolies* had some effect in London. It was suggested that the Natal government should pass an act to give equal electoral rights to British subjects, including Indians.

Gandhi responded to this gesture by running an ambulance car for the Red Cross in the war which had broken out in South Africa, between the Dutch settlers called the Boers and the British.

Again, he served as a stretcher-bearer in the Zulu rebellion against the South African government. And he was given a medal.

Soon, however, he realised that the whites wanted to drive the *coolies* out of the country, in spite of their good behaviour. Gandhi started a magazine called *Indian Opinion*, in which he began to plead for human rights.

He had, by now, evolved a new ethics. He gave up his house in Johannesburg. He set up Phoenix Farm, a welfare settlement for selfless service to all communities. He

took the vow not to cohabit with his wife Kasturbai. He corresponded with Leo Tolstoy, the great Russian writer, with whom he agreed on offering passive resistance to all governments if they wronged people. And he evolved the doctrine of *Satyagraha*, meaning, 'seizing the truth'. He would offer, love against hate. And he would try to convert the oppressor with his purity, humanity and honesty. Not an eye for an eye, or tooth for a tooth, but to offer the left cheek when hit on the right.

The test of this belief came soon. The Transvaal government adopted an 'Asiatic Registration Act' by which all blacks, browns and yellows had to carry a card.

Some Indians accepted this. Gandhi and many others refused. He was sent to jail for two months. This was his first term in jail. At last, General Smuts, the head of the government, said that he would repeal the black act. Gandhi agreed to this and was released. He regarded this as the first victory of *Satyagraha*.

Soon the victory was turned into defeat, when General Smuts reintroduced compulsory registration of Indians.

Gandhi again urged *Satyagraha*. He endorsed the view of the American philosopher, Thoreau, who had said: 'All men recognise the right to revolution. That is a right to refuse allegiance to and resist the Government, when its tyranny and inefficiency are great and unendurable'. Thoreau's civil disobedience, confirmed by Tolstoy's idea of resistance to power, reinforced Gandhi's own belief in *Satyagraha*.

He practised what he preached.

The South African government sent him to jail with his wife and sons. In confinement, he went on hunger strike. He was forcibly fed. His health broke down, but he persisted.

Out of jail, he did not show any rancour against the government, but kept on reminding the authorities of their injustices. He said that, as a citizen of the British Empire, he wanted, for himself and others, the rights

given to other subjects of the Crown.

During the First World War he found himself in London and not wanting to embarrass the British Government by civil disobedience, when they were in difficulties, he organised a volunteer corps to serve without pay in welfare service.

* * *

In 1915, he returned to India. On reading the appeal of the Prime Minister of Great Britain, Mr. Lloyd George, for a million Indian recruits, he began a movement for offering such recruits to the government. The quota of nine months was filled in seven months. But the war ended and the recruitment of volunteers became unnecessary.

Until the end of the war, Gandhi remained a loyal British subject and discouraged all attempts of Indian nationalists to embarrass the British government in any way.

The behaviour of the British government in India was, however, insensitive. During the war, the Viceroy's Council brought in a Defence of India Act. Under this, all liberties, so far given, were taken away.

The Act was used against the various, even legal, movements. For instance, Mrs. Annie Besant was interned for three months for a speech she delivered, suggesting reforms.

At the end of the war, the government of India passed the Rowlatt Act, named after Mr. Justice Rowlatt. This law forbade four Indians to get together and restricted every freedom in the same way as the war time Defence of India Act.

Gandhi urged the people to defy this ordinance with a *hartal* all over India. He travelled from Ahmedabad to Punjab, but was turned back from Palwal station near Mathura.

On 13 April 1919, a crowd had gathered at Jallian-

wala Bagh in Amritsar, on the occasion of the Baisakhi harvest fair, to protest against the deportation of their leaders, Dr. Saifuddin Kitchlew and Dr. Satya Pal, two followers of Gandhi.

General Dyer, who had been made the Martial Law authority in Amritsar, marched with a platoon of 25 Gurkhas and 25 Baluchis armed with rifles and two armoured cars. The armoured cars could not get through the narrow entrance of Jallianwala Bagh compound. So, without warning the crowd, he asked the fifty sepoy to open fire on the unarmed crowd. The firing did not stop until all the ammunition of 650 rounds was spent. Over 350 men and women and children were killed. Over one thousand wounded. Several people jumped into a well and were drowned.

General Dyer declared curfew in the city. Those who dared to go into the streets were made to crawl on their bellies, as punishment, because someone had killed an English nurse named Miss Sherwood.

Sir Michael O'Dwyer, Governor of Punjab, declared Martial Law in the whole of Punjab. And innocent and guilty were punished alike for months.

There was indignation and protest all over India against the atrocities committed by General Dyer and the Punjab government. The British Government appointed a Commission, under Lord Hunter, to question General Dyer about his misdeed.

In answer to questions the General said: 'I had made up my mind that I would do all men to death if they were going to continue the meeting'. It was no longer a question of dispersing the crowd, but one of producing sufficient moral effect, from a military point of view. Not only on those who were present, but more specially for the whole of Punjab. There could be no question of undue severity.

The Hunter Commission condemned this military officer. But the conservatives in Great Britain raised a

large fund to reward him for serving the Empire.

After the massacre, Gandhi began to take active part in the Indian National Congress. He also took up the cause of the Muslims of India against the British government which had abolished the Caliphate of Turkey. He united Hindus and Muslims in a vast protest movement.

In answer to the widespread agitation, the British Parliament offered some reforms, known as the Montagu-Chelmsford Reforms. C.E. Montagu was the Secretary of State for India, and the Viceroy was Lord Chelmsford.

Gandhi responded by telling the people to try out these reforms, agreeing to the idea of other leaders like Tilak, that, by working the reforms they would prove their inadequacy.

Meanwhile, the Viceroy, Lord Chelmsford, exonerated General Dyer of all blame. The Indian National Congress, asked for his recall and condemned the Punjab violence, and asked for the repeal of the Rowlatt Act.

As the government did not act, Gandhi announced a non-cooperation campaign on 1 August 1920, to be preceded by fasting and prayer.

Mahatma Gandhi, as he was now popularly called, toured the country to arouse the people against the government's misrule. He asked the students and teachers to leave schools and colleges. The peasants should not pay taxes, he said. And men and women were to spin their own cloth at home and not wear foreign clothing. He promised Swaraj in a year if non-violent non-cooperation was practised.

Soon the British arrested the Ali Brothers, who were Mahatma Gandhi's colleagues in the non-cooperation campaign. This action convinced the Mahatma that the government did not want to relent. Instead, they brought the Prince of Wales, then Duke of Windsor, to assert British sovereignty over India. There were demonstrations against this royal tour. The crowds were hostile to those who welcomed the Prince.

Mahatma Gandhi undertook a fast against the violent disturbances for five days.

The Government arrested the political leaders of the Congress party, C.R. Das, Motilal Nehru, Lajpat Rai, and hundreds of others. About twenty thousand Indians were jailed for civil disobedience on charges of sedition. By December 1921, ten thousand more Indians were taken to jail. The prisoners were flogged mercilessly in the prisons.

Gandhiji called it 'worse than Martial Law'.

He brooded on the crisis in Sabarmati Ashram. He still believed that non-violence is a law of our human species, as violence is the law of the brute. And it was during this period, 1921-1922, that he wrote several articles including: '*Disaffection a Virtue*', published on 15 June 1921; '*Tampering with Loyalty*', dated 29 September 1921; '*The Puzzle and Its Solution*', dated 15 December 1921; '*Shaking the Manes*', dated 23 February 1922.

Lord Reading, the new Viceroy, who succeeded Lord Chelmsford, had invited Gandhi to meet him. The meeting had taken place in May 1921.

In reply to people's objections to Mahatma's agreeing to see the Viceroy, Gandhiji said: 'We may attack measures and systems. We may not and must not attack men!' And he saw the Viceroy.

He told Lord Reading: 'Ours is a religious movement, designed to purge Indian political life of corruption, deceit and terrorism and the incubus of white supremacy. It was important to purify India. So Indians would non-cooperate, non-violently, with the Government!'

Lord Reading solemnly disapproved of this explanation. He asked 'Mr Gandhi' to think again before preaching sedition.

On 4 November 1921, the All India Congress Committee adopted a resolution to launch non-violent civil disobedience campaign, including non-payment of tax-

es. The committee promised that they would not make any move without Gandhiji's consent.

The Mahatma wanted to try out mass civil disobedience only in one area. He chose Bardoli Taluka, with a population of 87,000 peasants, near Ahmedabad, so that he could see that the campaign remained non-violent.

Before he could begin this movement in Bardoli, he informed Lord Reading of his plan on 1 February 1922.

On 5 February, however, in Chauri Chaura, a small town in United Provinces (now, Uttar Pradesh), the mob became violent. It was a peaceful procession. The policemen abused some processionists and tried to scatter the protesters. The men asked for help.

A mob gathered. The police opened fire. The little ammunition they had was exhausted and they returned to the police station for safety. The mob set fire to the station and twenty-two constables were burnt alive.

Mahatma Gandhi received the news in Bardoli on 8 February. He was badly shaken. He said: 'No provocation can possibly justify brutal murder of men who had been rendered defenceless and who had virtually thrown themselves on the mercy of the mob'.

He suspended the Bardoli campaign.

The governors of Bombay, Madras and Bengal, Sir George Lloyd, Lord Willingdon, and Lord Ronaldshay, were called by the Viceroy, Lord Reading, to discuss whether action should be taken against 'Mr Gandhi'.

On 1 March, Lord Reading decided to order the arrest of the Mahatma. He was arrested at 10.30 p.m., on the evening of Friday 10 March 1922, outside the Sabarmati Ashram.

The trial took place on the next day, in the court of Assistant Magistrate, Mr. Brown, in the Divisional Commissioner's office at Shahi Bagh, Ahmedabad.

The lower court committed Mahatma Gandhi and Shankarlal Banker, editor and printer of *Young India* for publishing seditious articles, to the sessions court.

Both the accused were tried by Mr Justice C. N. Broomfield. The Advocate-General of Bombay, Sir J.T. Strangman, prosecuted the case. Mahatma Gandhi and Shankarlal Banker pleaded guilty to the writing and publishing of the articles in *Young India*. The Mahatma made a moving statement to justify his seditious writings. The judge sentenced him to six years in jail and Shankarlal Banker to one year's imprisonment with a fine of Rs. 1,000.

This historic trial was to be one of the most important turning point in India's struggle for freedom.

Section Two

*Article 'Disaffection a Virtue' in
the issue of Young India dated
15 June 1921, referred to in the
deposition of Daniel Healy,
District Superintendent of
Police, Ahmedabad
Exh. B.LNB 11/3/22*

'Disaffection a Virtue': To illustrate the dishonourable character of the existing system of Government, I have two telling instances before me. Principal Gidwani, the Vice-Chancellor of the Gujarat Vidyapith, has received a summons from Madras to answer the charge of disaffection, in connection with a speech delivered two months ago at Bezwada. There is no question of incitement to violence, as the charge itself would show. The Section 124A, under which Mr Gidwani is charged, runs:

"Whoever . . . attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards His Majesty or the Government established by law in British India, shall be punished. . . ."

No one preaches hatred or disaffection towards his kind — the disaffection, which Mr. Gidwani must have preached, the Ali Brothers are preaching ceaselessly. No one, perhaps, excels me in harbouring and promoting disaffection towards it. Indeed, I hold it to be the duty of every good man to be disaffected towards the existing Government, if he considers it as non-cooperators consider it to be evil. Having decided not to prosecute the Ali Brothers, the Government should have stopped all prosecutions except for violence. But under the existing system of Government, even an ex-Lord Chief Justice of

England, cannot prevent a divorce between profession and practice, unless he fears himself from his environment and supersedes the corrupt traditions of the corrupt systems.

The Indicted Articles

*The following are the offending
articles by Mahatma Gandhi,
which were read out by the
Registrar during the Sessions.*

'Tampering with Loyalty'

29 September 1921

His Excellency the Governor of Bombay had warned the public some time ago, that he meant business; that he was no longer going to tolerate the speeches that were being made. In his note on Ali Brothers and others, he has made clear his meaning. The Ali Brothers are to be charged with having tampered with the loyalty of the sepoys and with having uttered sedition. I must confess, that I was not prepared for the revelation of such hopeless ignorance on the part of the Governor of Bombay. It is evident that he has not followed the course of Indian history during the past twelve months. He evidently does not know, that the National Congress began to tamper with the loyalty of the sepoys in September last year, that the Central Khilafat Committee began it earlier, and that I began it earlier still, for I must be permitted to take the credit or the odium of suggesting that India had a

right openly to tell the sepoy and everyone who served the Government. The conference at Karachi merely repeated the Congress declaration in terms of Islam. Only a divine can speak for Islam, but speaking for Hinduism and speaking for nationalism, I have no hesitation in saying, that it is sinful for any one, either as soldier or civilian, to serve this Government, which has proved treacherous to the Musalmans of India and which has been guilty of the inhumanities in the Punjab. I have said this from many a platform in the presence of sepoys. And if I have not asked individual sepoys to come out, it has not been due to want of will but of ability to support them. I have not hesitated to tell the sepoy that if he could leave the service and support himself without the Congress or Khilafat aid he should leave at once. And I promise, that as soon as the spinning wheel finds an abiding place in every home and Indians begin to feel that weaving gives anybody an honourable livelihood, I shall not hesitate, at the peril of being shot, to ask the Indian sepoy individually to leave his service and become a weaver. For has not the sepoy been used to hold India under subjection? Has he not been used to murder innocent people at Jallianwala Bagh? Has he not been used to drive away innocent men, women and children during that dreadful night at Chandpur? Has he not been used to subjugate the proud Arabs of Mesopotamia? Has he not been utilised to crush the Egyptian? How can any Indian, having a speck of humanity in him, and any Musalman, having any pride in his religion, feel otherwise than as the Ali Brothers have done? The sepoy has been used more often as a hired assassin than as a soldier, defending the liberty or the honour of the weak and the helpless. The Governor has pandered to the basest in us by telling us what would have happened in Malabar, but for the British soldier or sepoy. I venture to inform His Excellency that Malabar Hindus would have fared better without the British

bayonet, that Hindus and Musalmans would have jointly appeased the Moplahs, that possibly there being no Khilafat question, there would have been no Moplah riot at all, that, at the worst, supposing that Musalmans had made common cause with the Moplahs, Hinduism would have relied upon its creed of non-violence and turned every Musalman into a friend, or Hindu valour would have been tested and tried. The Governor of Bombay has done a disservice to himself and his cause (whatever it might be), by fomenting Hindu-Muslim disunion and has insulted the Hindus, by letting them infer from his note that Hindus are helpless creatures, unable to die for or defend their hearth, home or religion. I think, however, the Governor is right in his assumption the sooner the Hindus die out, the better for humanity. But let me remind His Excellency, that he has pronounced the greatest condemnation upon British rule, in that it finds Indians today devoid of enough manliness to defend themselves against looters, whether they are Moplah Musalmans or infuriated Hindus of Arrah.

His Excellency's reference to the sedition of the Ali Brothers is only less unpardonable than his reference to the tampering. For he must know, that sedition has become the creed of the Congress. Every non-cooperator is pledged to preach disaffection towards the Government established by law. Non-cooperation, though a religious and strictly moral movement, deliberately aims at the overthrow of the Government, and is, therefore, legally seditious in terms of the Indian Penal Code. But this is no new discovery. Lord Chelmsford knew it. Lord Reading knows it. It is unthinkable that the Governor of Bombay does not know it. It was a common cause that so long as the movement remained non-violent, nothing would be done to interfere with it.

But it may be urged that the Government has a right to change its policy when it finds that the movement is really threatening its very existence as a system. I do not

deny its right. I object to the Governor's note, because it is so worded as to let the unknowing public think, that tampering with the loyalty of the sepoy and sedition were fresh crimes committed by the Ali Brothers and brought for the first time to His Excellency's notice.

However, the duty of the Congress and Khilafat workers is clear. We ask for no quarter; we expect none from the Government. We did not solicit the promise of immunity from prison, so long as we remained non-violent. We may not now complain if we are imprisoned for sedition. Therefore, our self-respect and our pledge require us to remain calm, unperturbed and non-violent. We must reiterate from a thousand platforms, the formula of the Ali Brothers regarding the sepoys, and we must spread disaffection openly and systematically till it please the Government to arrest us. And this we do, not by way of angry retaliation, but because it is our Dharma. We must wear Khadi even as the brothers have worn it and spread the Gospel of Swadeshi. The Musalmans must call for Smyrna relief and the Angora Government. We must spread like the Ali Brothers the Gospel of Hindu-Muslim unity and of non-violence for the purpose of attaining Swaraj and the redress of the Khilafat and Punjab wrongs.

We have almost reached the crisis. It is well with a patient who survives a crisis. If on the one hand we remain firm as a rock in the presence of danger, and on the other observe the greatest self-restraint, we shall certainly attain our end this very year. □

'The Puzzle and Its Solution'

15 December 1921

Lord Reading is puzzled and perplexed. Speaking in reply to the addresses from the British Indian Association and the Bengal National Chamber of Commerce at

Calcutta, His Excellency said: 'I confess that when I contemplate the activities of a section of the community, I find myself still, notwithstanding persistent study, ever since I have been in India, puzzled and perplexed. I ask myself what purpose is served by flagrant breaches of the law for the purpose of challenging the Government and in order to compel arrest?' The answer was partly given by Pandit Motilal Nehru, when he said, on being arrested, that he 'was being taken to the house of freedom'. We seek arrest because the so-called freedom is slavery. We are challenging the might of this Government, because we consider its activity to be wholly evil. We want to overthrow the Government. We want to compel its submission to the people's will. We desire to show that the Government exists to serve the people, not the people the Government. Free life under the Government has become intolerable, for the price exacted for the retention of freedom is unconscionably great. Whether we are one or many, we must refuse to purchase freedom at the cost of our self-respect or our cherished convictions. I have known even little children become unbending when an attempt has been made to cross their declared purpose, be it ever so flimsy in the estimation of their parents.

Lord Reading must clearly understand that the non-cooperators are at war with the Government. They have declared rebellion against it in as much as it has committed a breach of faith with the Musalmans. It has humiliated the Punjab. And it insists upon imposing its will upon the people and refuses to repair the breach and repent of the wrong done in the Punjab.

There were two ways open to the people, the way of armed rebellion and the way of peaceful revolt. Non-cooperators have chosen, some out of weakness, some out of strength, the way of peace, i.e. voluntary suffering.

If the people are behind the sufferers, Government must yield or be overthrown. If the people are not with

them, they have at least the satisfaction of not having sold their freedom. In an armed conflict the more violent is generally the victor. The way of peace and suffering is the quickest method of cultivating public opinion, and therefore when victory is attained, it is for what the world regards as Truth. Bred in the atmosphere of law courts, Lord Reading finds it difficult to appreciate the peaceful resistance to authority. His Excellency will learn, by the time the conflict is over, that there is a higher court, than courts of justice, and that is the court of conscience. It supersedes all other courts.

Lord Reading is welcome to treat all the sufferers as lunatics, who do not know their own interest. He is entitled, therefore, to put these out of harm's way. It is an arrangement that entirely suits the 'lunatics', and it is an ideal situation if it also suits the Government. He will have cause to complain if, having courted imprisonment, non-cooperators fret and fume or 'whine for favours' as Lalaji* puts it. The strength of a non-cooperator lies in his going to gaol uncomplainingly. He loses his case if, having courted imprisonment, he begins to grumble, immediately his courtship is rewarded.

The threats used by His Excellency are unbecoming. This is a fight to the finish. It is a conflict between the reign of violence and of public opinion. Those who are fighting for the latter are determined to submit to any violence rather than surrender their opinion. □

*Lala Lajpat Rai

'Shaking the Manes'
23 February 1921

How can there be any compromise whilst the British Lion continues to shake his gory claws in our faces? Lord Birkenhead reminds us that Britain has lost none of her hard fibre. Mr. Montagu tells us in the plainest language that the British are the most determined nation in the world, who will brook no interference with their purpose. Let me quote the exact words telegraphed by Reuter:

If the existence of our Empire were challenged, the discharge of responsibilities of the British Government of India prevented, and demands were made in the very mistaken belief that we contemplated retreat from India, then India would not challenge with success the most determined people in the world, who would once again answer the challenge with all the vigour and determination at its command.

But Lord Birkenhead and Mr. Montagu little know that India is prepared for all 'the hard fibre' that can be transported across the seas and that her challenge was issued in September of 1920 at Calcutta, that India would be satisfied with nothing less than Swaraj and full redress of the Khilafat and the Punjab wrongs. This does involve the existence of the 'Empire', and if the present custodians of the British Empire are not satisfied with its quiet transformation into a true Commonwealth of free nations, each with equal rights, and each having the power to secede at will from an honourable and friendly partnership, all the determination and vigour of 'the most determined people in the world' and 'hard fibre' will have to be spent in India in a vain effort to crush the spirit that has risen and that will neither bend nor break. It is true that we have no 'hard fibre'.

The rice-eating puny millions of India seem to have resolved upon achieving their own destiny without any further tutelage and without army. In the Lokmanya's language, it is their 'birthright' and they will have it in spite of the 'hard fibre', and in spite of the vigour and determination with which it may be administered. India cannot and will not answer this insolence with insolence, but if she remains true to her pledge, her prayer to God to be delivered from such a scourge will certainly not go in vain. No empire, intoxicated with the red wine of power and plunder of weaker races, has yet lived long in this world, and this 'British Empire', which is based upon organised exploitation of physically weaker races of the earth and upon a continuous exhibition of brute force, cannot live if there is a just God ruling the universe. Little do these so-called representatives of the British nation realise that India has already given many of her best men to be dealt with by the British 'hard fibre'. Had Chauri Chaura not interrupted the even course of the national sacrifice, there would have been still greater and more delectable offerings placed before the Lion, but God had willed it otherwise. There is nothing, however, to prevent all those representatives in Downing Street and Whitehall from doing their worst. I am aware that I have written strongly about the insolent threat that has come from across the seas, but it is high time that the British people were made to realise that the fight that was commenced in 1920 is a fight to the finish, whether it lasts one month or one year or many months or many years and whether the representatives of Britain re-enact all the indescribable orgies of the Mutiny days, with redoubled force, or whether they do not. I shall only hope and pray that God will give India sufficient strength to remain non-violent to the end. Submission to the insolent challenges that are cabled out on due occasions is now an utter impossibility. □

Section Three

The Arrest

On 10 March morning, 1922, Mahatma Gandhi was arrested by Mr. Healy, the District Superintendent of Police of Ahmedabad, along with Shankarlal Banker. The police officer came to the gate of the Sabarmati Ashram at 10 o'clock on the morning of 10 March. He did not go into the Retreat. He met Shankarlal Banker and Anasuya Sarabhai outside, on the roadside.

The District Superintendent of Police, Healy showed them warrant for the arrest of Mahatma Gandhi and Shankarlal Banker. The document read as follows:

The Governor in Council on the 4th March 1922 passed the following order in pursuance of the provisions of Section 196 of the Criminal Procedure Court Act of 1898, the Governor in Council hereby authorises Daniel Healy—District Superintendent of Police to lodge a complaint, under Section 124A of the Indian Penal Code, 1860, against Mohandas Karamchand Gandhi and Shankarlal Banker, Editor and Printer respectively, of the *Young India* Newspaper, printed and published in Ahmedabad, in respect to the following articles which appeared in the issues of the said newspaper specified below:

- a. Disaffection – a Virtue
15 June 1921
- b. Tampering with Loyalty
29 September 1921
- c. The Puzzle and Its Solution
15 December 1921
- d. Shaking the Manes
23 February 1922

The D.S.P. told the two persons he met: 'Let him take his time. There is no hurry'.

Mahatma Gandhi was then having his bath. The news was communicated to him when he came out. The rumour spread in the Ashram. All the inmates came to the Mahatma's cottage to say farewell to him. The Mahatma asked them to sing a Gujarati hymn about a true devotee.

After the chorus, he spoke to his flock on the joy of surrendering when charged. And he exhorted them to remain peaceful and non-violent.

On the way to the gate, to meet the police officer, he again asked his followers to remain calm.

'Work hard and tire not', he said.

Mr. Healy took the Mahatma and Shankarlal Banker to the Sabarmati jail. Four or five people were allowed to go with them inside the jail, to see the two accused settle in.

The part of the jail, where the accused were housed, was an eight-roomed barrack, with a verandah and a large courtyard in front, with small trees in the middle.

Of the two separate rooms given to them, each had an iron cot with a mattress, two sheets, a pillow, a blanket and a small carpet on the floor. Light was provided for the night.

The doors of the rooms had wooden frames, with planks six inches wide, into which were fixed iron bars, over an inch thick. The place was clean. □

Section Four

*Proceedings in the court of
Assistant Magistrate,
Mr. L.N. Brown*

Proceedings were conducted in the lower court before Mr L.N. Brown, Additional District Magistrate, held in the Divisional Commissioner's Office at Shahi Bagh, Ahmedabad. The Public Prosecutor, Rai Bahadur Girdharilal, conducted the proceedings.

Visitors were allowed. Those present included Smt. Kasturba Gandhi, Shri Vallabh Bhai Patel, Shri Ambalal and Smt. Sarabhai, Dr. Khanga, Mrs. Sarojini Naidu and others.

Mahatma Gandhi sat in the front row, centre chair, with Shri Shankarlal Banker next to him. The Mahatma was wearing a loincloth, without anything on the torso. His head was close cropped, with the striking bare skull, alert above his big ears. His face was knit in his characteristic dignified reserve. His determined chin betokened his will to accept whatever may come his way as a consequence of his defiant articles.

The Superintendent of Police, Ahmedabad, was the first witness. He presented to the Magistrate the document of authority of the Bombay Government to lodge a complaint about the four articles, published in *Young India*, edited by M.K. Gandhi, written by the Editor, the magazine printed by Shankarlal Banker. The articles in question were: 'Disaffection a Virtue', which appeared on 15 June 1921; 'Tampering with Loyalty', which appeared on 29 September; 'The Puzzle and Its Solution', which appeared on 15 December 1921; 'Shaking the Manes', which appeared on 23 February 1922.

The original signed articles and the issues referred to were produced in evidence and handed over to the Magistrate.

The Superintendent of Police added that the warrant was issued on 5 December by the District Magistrate, Ahmedabad. The case was filed before Mr L.N. Brown. The Police Officer further stated that warrants were also issued to the Superintendents of Police of Surat and Ajmer, respectively, because Mr Gandhi was reported to be going to these places. A second witness presented correspondence relevant to the case between Mahatma Gandhi, as Editor of *Young India* and Mr. Kennedy, District Judge, Ahmedabad. The third witness was Mr. Chatfield, District Magistrate of Ahmedabad. He testified to the security deposited by Mahatma Gandhi for *Young India*, and the declaration of Mr Shankarlal Banker, as the printer and publisher of *Young India*. Then two more police witnesses were produced.

The Magistrate asked the accused if they wished to cross examine the witnesses. Both accused waved their heads negatively. Mahatma Gandhi uttered a soft: 'No'. The Registrar of the High Court, Mr Grada, deposed about the contempt of court case of 1919, in which the accused M.K. Gandhi was involved.

The Magistrate asked Mr Gandhi: 'Age? Caste? Occupation?'

The Mahatma answered simply: 'Age 53; Hindu Banya; Farmer and Weaver'.

The Magistrate was taken aback. The answer of the man who wrote 'subversive' articles, seemed to him strange. He raised his eyebrows. Then he put down on paper the words: '11th March, 1922 (in case No. 1 of 1922). Mohandas Karamchand Gandhi, aged 53, Hindu Banya, Occupation Farmer and Weaver, having residence at Ashram Sabarmati.'

Mr. Brown asked Shankarlal Banker: 'Age? Professor ? Caste? Occupation?'





~ 26 ~

Shankarlal Banker answered: 'Age 32; Hindu Banya; land proprietor, having residence at Chopatty, Bombay'.

The Magistrate then said: 'The evidence has been given in your hearing. Do you wish to make any remarks about it?'

Mahatma Gandhi answered: 'I only wish to state that when the time comes I shall plead "guilty", so far as disaffection towards government is concerned. It is true that I am the Editor of *Young India*, that the articles read in my presence were written by me, and that the proprietors and publishers permitted me to control the whole of the policy of the paper. That is all'.

The proceedings recorded that the accused number one did not wish to call any witnesses, and that he had no objection if the trial in the Sessions Court be proceeded without delay.

The learned Magistrate passed the following order:

'The accused having been charged with promoting sedition by certain articles published in *Young India*, of which accused number one is the Editor and accused No. 2 the Printer: They have stated that it is their intention to plead guilty to the charge at the proper time. I, L.N. Brown, Additional District Magistrate, hereby charge you, Mohandas Karamchand Gandhi as follows:

'That you being the Editor of the Paper *Young India*' on or about the 29th day of September, 1921, the 15th day of December, 1921, and the 23rd day of February 1922, at Ahmedabad, did write the words contained in the appendix to this charge, and by these written words did bring, or did attempt to bring, into hatred or contempt, or did excite, or did attempt to excite disaffection towards His Majesty, or the Government established by law in British India, and thereby committed offences punishable under Section 124A of the Indian Penal Code and within the cognisance of the Court of Sessions.

'And I hereby direct that you be tried by the said court on the said charge. I have, therefore, no alternative, but to commit you to the Court of Sessions for offences appearing too serious for me to dispose of the case myself'.

The Magistrate and other officials retired after the hearing, leaving Mahatma Gandhi with his friends. Suddenly Smt. Sarojini Naidu, the legendary poetess and patriot, entered the court room. On hearing in Ajmer, of the Mahatma's arrest she had travelled overnight and come to the court straight from the railway station. As she walked up to the place behind the prisoner's chairs, and seized Mahatma's hands and took them to her closed eyes with deep emotion of affection and reverence, the Mahatma seemed touched and bent his head before her.

The whole scene of the trial in the Magistrate's court was marked by a calm dignity, without any rancour from the side of the accused, and without any sharpness in his gentle, soft and unassuming presence.

The Inspector of Police, as also Mr. Chatfield, and the Magistrate, Mr. L.N. Brown, seemed to be doing their duty as officers of the British Crown, and were, for the first time, face to face with a man, who was not arrogant in defiance of the law, who had no animus against any particular employee of the Crown, but was against a system which seemed to him to be oppressive. □

Section Five

Trial in the Sessions Court

The trial in the Sessions Court began on 18 March 1922.

Rumours had spread all over India that Mahatma Gandhi was facing punishment for voicing the demand of the Indian people for freedom from an oppressive Sarkar. Many newspapers in the world carried news of the impending trial. This was a test case. The foremost leader of the Indian subcontinent was being tried like Socrates for disaffecting the people. The image of Gandhi as a Mahatma assumed heroic dimensions. The issue involved was a crucial one, morally and politically: Was the Mahatma right to make political rebellion a moral right? The trial was to become an historic event in the annals of India's struggle for liberation from imperial rule.

The proceedings began at 12 noon, on 18 March in the Court of Sessions at Ahmedabad, before the District and Sessions Judge Mr. C.N. Broomfield.

The accused Mahatma Gandhi and Shankarlal Banker had arrived at the court at 11.40 a.m. Pandit Madan Mohan Malaviya was with them.

Admission to the court was strictly by tickets. But the court was full of distinguished visitors from Ahmedabad and other parts of the country. Some members of the Working Committee of the Indian National Congress, as well as the Provincial Congress Committee, were present. Conspicuous in the gathering were Kasturba Gandhi, Smt. Sarojini Naidu, Pandit Madan Mohan Malaviya, Shri Ambalal Sarabhai, Shri T. Prakasam, Shri Jawaharlal Nehru, Shri N.C. Kelkar, Kumari Anasuya Ben, Shri Abbas Tyabji and Shri Keshava Menon.

Smt. Sarojini Naidu wrote afterwards:

'A convict and a criminal in the eyes of the law! Nevertheless the entire court rose in an act of spontaneous homage when Mahatma Gandhi entered—a frail, serene, indomitable figure, in a coarse and scanty loincloth, accompanied by his devoted disciple and fellow prisoner Shankarlal Banker.'

"So you are seated near me to give me your support in case I break down," he jested with that happy laugh of his which seems to hold all the undimmed radiance of the world's childhood in its depths. And, looking round at the host of men and women who had travelled far to offer him a token of their love, he added: "This is like a family gathering and not a law court."

The security arrangements outside the court were strict. Policemen were stationed all round the court. A platoon of Indian infantry stood guard in the compound. Some British police officers were supervising precautionary measures.

Sir J.T. Strangman, Advocate-General, entered the court at 11.50 a.m. He nodded to the accused. The Sessions Judge, Mr. C.N. Broomfield, took his seat at 12 o'clock.

The judge said: The charges framed by the Public Prosecutor had three counts, committed within the space of a year, and committed and charged together. As this was so, the charge should be read and thereby committed for offences punishable under Section 124A of the Indian Penal Code.

The Advocate-General agreed with the Judge.

The charges were then read out by the Registrar of the Court—the offences being the three articles published in *Young India*, of 29 September, 15 December 1921, and 23 February 1922. The offending articles were then read out: 1. 'Tampering with Loyalty'; 2. 'The Puzzle and Its Solution'; 3. 'Shaking the Manes'.

Mr. Broomfield, the Judge, said that the charge

should not only be read, but explained to the accused. In this case, it would not be necessary for him to say much by way of explanation.

The charge in each case was that of bringing, or attempting to bring, into hatred or contempt, or exciting, or attempting to excite, disaffection towards His Majesty's Government, established by law in British India. The accused were charged with the three offences under Section 124A, contained in the articles read out, written by Mr. Gandhi and printed by Mr. Banker. The words 'hatred' and 'contempt' were words, the meaning of which was sufficiently obvious. The word 'disaffection' was defined under the Section and the accused had been told that disaffection included disloyalty and feeling of enmity. The word used in this section had also been interpreted by the High Court of Bombay in a reported case as meaning political alienation or discontent, a spirit of disloyalty to Government or existing authority.

The charges having been read out and explained the Judge asked: 'Mr. Gandhi, will you plead guilty or claim to be tried?'

Mahatma Gandhi said: 'I plead guilty to all the charges. I observe that the King's name has been omitted from the charges and it has been properly omitted.'

The Judge asked: 'Mr. Banker do you plead guilty or do you claim to be tried?'

Shankarlal Banker answered: 'I plead guilty'.

The Advocate-General then pointed out that, under Section 27B Criminal Procedure Code, the Court might convict the accused on their plea or proceed with the trial.

The Section says:

'If the accused plead guilty, the plea shall be recorded, and he may be convicted thereon'.

He would, therefore, ask the Judge to proceed with the case, firstly, because the charges were of a serious

character, and secondly it was highly desirable, in the public interest, that those charges should be fully investigated. Sentence could not be passed simply because the accused had pleaded guilty. A Judge could not deal with the matter unless all the facts of the case were laid down before him. That was the view taken by the Bombay High Court (19 Bombay Law Reports, page 356). It would be impossible to deal with the matter satisfactorily and also other matter which he would ask the Judge to take into account. On that ground also he would ask the Court to proceed with the trial.

The Judge said: 'I do not agree. I have under the law full discretion to convict the accused on their own plea. And in this particular case I cannot see what advantage can be gained by going through the evidence. The only evidence will be evidence to show that Mr. Gandhi was responsible for these particular articles. In the face of his plea, it seems to me it would be futile to record any more evidence on that point.'

As regards the question of sentence, the Judge said that he would like to hear what Mr. Gandhi wished to say. He did not think the mere recording of evidence and proceeding with the trial asked for, might make any difference one way or the other. He, therefore, proposed to accept the plea of the accused. Nothing remained then but to pass sentence. But before that he would like to hear what the Advocate-General had to say on the sentence.

Mahatma Gandhi smilingly accepted this decision.

Sir J.T. Strangman told the Judge: 'It will be difficult to do so. I ask the court that the whole matter may be properly considered. If I state what has happened before the committing Magistrate, then I can show that these are material to the question of sentence.'

The first point he wanted to make, he said, was that the matter which formed the subject of the present charges formed a part of a campaign to spread disaffec-

tion openly and systematically, to render Government impossible and to overthrow it. The earliest article that was published in *Young India* was dated 25 May 1921, which said it was the duty of a non-cooperator to create disaffection towards the Government.

The Sessions Judge said that the Court could nevertheless accept a plea on the materials on which sentence had to be passed.

The Advocate-General said that the question was entirely for the Court to decide. The Court was always entitled to deal in a more general manner in regard to the question of sentence than the particular manner resulting in conviction. He asked leave to refer to the articles before the Court and show what might have been produced if the trial had proceeded in order to ascertain what the facts were. He was not going into any matter which involved dispute.

The Judge said there was not the least objection. The Advocate-General said he wanted to show that these articles were not isolated. They formed part of an organised campaign. But so far as *Young India* was concerned, they would show that it started from the year 1921.

The Court then read extracts from the paper, dated 8 June, on the duty of a non-cooperator, which was to preach disaffection towards the existing Government and prepare the country for civil disobedience. Then in the same number there was an article dated 28 July, 'Disaffection a Virtue' or something to that effect. Then in the same number there was an article dated 28 July 1921, in which it was stated that we have 'to destroy the system'. Again on 30 September 1921, there was another article titled 'Punjab Prosecution', where it was stated that 'a non-cooperator worth his name should preach disaffection'. They were earlier in date than the article 'Tampering with Loyalty', and it was referred to by the Government of Bombay.

Advocate General:-- All that I want to show is that these articles are not isolated but they form part of an organised -- campaign. I do not propose to read all of them, but I would read only extracts from them.

(Here the Advocate General read extracts from articles in Young India dated 8th and 15th of June, 1st of Sept 1931 etc).

Agree
Well that is so far as the Young India is concerned. The campaign itself, was, undoubtedly, started at a very much earlier date. Well that is the first matter to which I draw your attention. The second matter to which I draw your attention is that the first accused is a man of high education and qualifications. From his writings it is clear that he is a recognised lawyer. The result is that the harm which is likely to be caused is considerable. There is a lot of difference between the writings of an educated man and an ordinary man. Lastly, the Court must consider to what use this a campaign of the type disclosed in these writings would be evidently lost, if unchecked. We have seen this before in the last few months. I refer to the occurrences in Bombay, Poona and Chauri Chaura, viz. rioting, murders and destruction of property involving numerous people in misery and misfortune. It is true that in the course of these articles non-violence is insisted upon as an item of the wild campaign -- an item of the creed, but of what value it is to insist on non-violence if he incessantly preaches disaffection towards the Govt holding it up as treacherous and if he openly and deliberately seeks and instigates others to overthrow it? And the answer to that question appears to me to be found in what happened at Madras, Bombay and Chauri Chaura. These are circumstances which I ask you to take into consideration in relation to the first accused. And it would be for you to consider whether these circumstances must involve a sentence of severity.

With regard to the second accused. His guilt is, admittedly, of a lesser degree. Whilst he printed and so abetted the publication of the articles in question he did not write them. His offence nevertheless is a serious one and my intention is

He added that the accused is a man of high educational qualifications and, from his writings, he is an acknowledged leader. The harm that was likely to be caused was considerable. The writings were by an educated man and not the writings of some obscure man. The Court must consider what the nature of the campaign proposed in the writings must inevitably lead to. In the last few months this became apparent. In last November both in Bombay and Chauri Chaura, there were murders and destruction of property, bringing misery and misfortune to many people. It is true that in the course of the articles, non-violence was insisted upon as a creed. But what was the use of preaching non-violence when he preached disaffection towards Government, or openly instigated others to overthrow it? The answer to that question seemed to him to come from Chauri Chaura, Madras and Bombay.

These were the circumstances which he asked the Government to take into account in sentencing the accused. It was before the Court to consider these circumstances which involved sentences of severity.

As regards the second accused, the offence was lesser. He did the publication but did not write. He is a man of means. The Court should impose a substantial fine on him, in addition to such terms of imprisonment as might be inflicted upon him. The Advocate-General quoted Section 20 of the Press Act as bearing on the question of fine. A deposit of Rs. 1,000 to Rs. 10,000 was asked for in many cases when making a fresh declaration.

The Judge: 'Mr. Gandhi, do you wish to make a statement on question of sentence?'

Mahatma Gandhi: 'I would like to make a statement'.

The Judge: 'Could you give it to me in writing to put it on record?'

Mahatma Gandhi: 'I shall give it as soon as I finish reading it'.

*Introductory remarks by
Mahatma Gandhi before
reading his statement*

Mahatma Gandhi made some introductory remarks before reading his statement.

'I would like to state that I entirely endorse the learned Advocate-General's remarks in connection with my humble self. I think that he was entirely fair to me in all the statements he has made, because it is very true, and I have no desire whatsoever to conceal from this court the fact that to preach disaffection towards the existing system of Government has almost become a passion with me. And the learned Advocate-General is also entirely right when he says that my preaching of disaffection did not commence with my connection with *Young India*, but that it commenced much earlier. And in the statement that I am about to read, it will be my painful duty to admit before this Court that it commenced much earlier than the period stated by the Advocate-General. It is the most painful duty with me, but I have to discharge that duty, knowing the responsibility that rests upon my shoulders. And I wish to endorse all the blame that the learned Advocate-General has thrown on my shoulders in connection with the Bombay occurrences, Madras occurrences and the Chauri Chaura occurrences. Thinking over these deeply, and sleeping over them, night after night, it is impossible for me to disassociate myself from the diabolical crimes of Chauri Chaura, or the mad outrages of Bombay. He is quite right when he says, that as a man of responsibility, a man having received a fair share of education, having had a fair share of experience of this world, should have known consequences of everyone of my acts. I know them. I know that I was playing with fire. I ran the risk and if I was set free I would still do the same. I have felt it this morning that I would be failing in my

duty if I do not say what I said just now. I wanted to avoid violence. Non-violence is the first article of my creed. It is also the last article of my creed. But I had to make my choice. I had either to submit to a system which I considered had done irreparable harm to my country, or incur the risk of the mad fury of my people bursting forth when they understood the truth from my lips. I know that my people have sometimes gone mad. I am deeply sorry for it. And I am therefore here to submit not to a light penalty but to the highest penalty. I do not ask for mercy. I do not plead for any extenuating act. I am here, therefore, to invite and cheerfully submit to the highest penalty that can be inflicted upon me, for what in law is a deliberate crime and what appears to me to be the highest duty of a citizen. The only course open to you, the judge, is, as I am just going to say in my statement, either to resign your post, or to inflict on me the severest penalty if you believe that the system and law you are assisting to administer are good for the people. I do not expect that kind of conversion. But by the time I have finished with my statement you will perhaps have a glimpse of what is raging within my breast. to run this maddest risk which a sane man can run.' □

Mahatma's Statement

Mahatma Gandhi then read out his statement.

'I owe it perhaps to the Indian public and to public in England to placate which this prosecution is mainly taken up: that I should explain why, from a staunch loyalist and cooperator, I have become an uncompromising disaffectionist and non-cooperator. To the Court too I should say why I plead guilty to the charge of promoting disaffection towards the Government established by law in India.

'My public life began in 1893 in South Africa in troubled weather. My first contact with British authority in that country was not of a happy character. I discovered that, as a man and an Indian, I had no rights. More correctly, I discovered that I had no rights as a man because I was an Indian.

'But I was not baffled, I thought that this treatment of Indians was an excrescence upon a system that was intrinsically and mainly good. I gave the Government my voluntary and hearty cooperation, criticising it freely where I felt it was faulty but never wishing its destruction.

'Consequently, when the existence of the Empire was threatened in 1899 by the Boer challenge, I offered my services to it, raised a volunteer ambulance corps and served at several actions that took place for the relief of Ladysmith. Similarly, in 1906, at the time of Zulu revolt, I raised a stretcher-bearer party and served till the end of the rebellion. On both these occasions I received medals and was even mentioned in despatches. For my work in South Africa, I was given by Lord Hardinge a Kaiser-i-Hind Gold Medal. When the war broke out in 1914 between England and Germany, I raised a volunteer ambulance corps in London, consisting of the then resident Indians in Lon-

I should say why
 I should go to the charge
 of promoting disinfection
 for the Government
 established by law in India.

don, chiefly students. Its work was acknowledged by the authorities to be valuable. Lastly in India, when a special appeal was made at the war conference in Delhi in 1918 by Lord Chelmsford for recruits, I struggled, at the cost of my health, to raise a corps in Kheda and the response was being made when the hostilities ceased and the orders were received that no more recruits were wanted. In all these efforts at service I was actuated by the belief that it was possible by such services to gain a status of full equality in the Empire for my countrymen.

The first shock came in the shape of the Rowlatt Act, a law designed to rob the people of all real freedom. I felt called upon to lead an intensive agitation against it. Then followed the Punjab horrors beginning with the massacre of Jallianwala Bagh and culminating in crawling orders, public floggings and other indescribable humiliations. I discovered too that the plighted word of the Prime Minister to the Mussalmans of India regarding the integrity of Turkey and the Holy Places of Islam was not likely to be fulfilled. But, in spite of the forebodings and the grave warnings of friends, at the Amritsar Congress in 1919, I fought for cooperation and working the Montagu-Chelmsford reforms, hoping that the Prime Minister would redeem his promise to the Indian Mussalmans, that the Punjab wound would be healed and that the reforms, inadequate and unsatisfactory though they were, marked a new era of hope in the life of India.

But all that hope was shattered. The Khilafat promise was not to be redeemed. The Punjab crime was whitewashed and most culprits went not only unpunished but remained in service and some continued to draw pensions from the Indian revenue, and in some cases were even rewarded. I saw to that not only did the reforms not mark a change of heart, but they were only a method of further draining India of her wealth and of prolonging her servitude.

'I came reluctantly to the conclusion that the British connection had made India more helpless than she ever was before politically and economically. A disarmed India has no power of resistance against any aggressor if she wanted to engage in an armed conflict with him. So much is this the case that some of our best men consider that India must take generations before she can achieve the Dominion Status. She has been so poor that she has little power of resisting famines. Before the British advent, India spun and wove, in her millions of cottages, just the supplement she needed for adding to her meagre agricultural resources. The cottage industry, so vital for India's existence, has been ruined by incredibly heartless and inhuman processes as described by English witnesses. Little do town-dwellers know how the semi-starved masses of India are slowly sinking to lifelessness. Little do they know that their miserable comfort represents the brokerage they get for the work they do for the foreign exploiter, that the profits and the brokerage are sucked from the masses. Little do they realise that the Government established by law in British India is carried on for this exploitation of the masses. No sophistry, no jugglery in figures, can explain away the evidence that the skeletons in many villages present to the naked eye. I have no doubt whatsoever that both England and the town-dwellers of India will have to answer, if there is a God above, for this crime against humanity which is perhaps unequalled in history. The law itself in this country has been used to serve the foreign exploiter. My unbiased examination of the Punjab Martial Law cases has led me to believe that at least ninety-five per cent of convictions were wholly bad. My experience of political cases in India leads me to the conclusion that in nine out of every ten the condemned men were totally innocent. Their crime consisted of the love of their country. In ninety-nine cases out of hundred, justice has been denied to Indians as against Euro-

peans in the courts of India. This is not an exaggerated picture. It is the experience of almost every Indian who has had anything to do with such cases. In my opinion the administration of the law is thus prostituted, consciously or unconsciously, for the benefit of the exploiter.

The greatest misfortune is that Englishmen and their Indian associates in the administration of the country, do not know that they are engaged in crime I have attempted to describe. I am satisfied that many Englishmen and Indian officials honestly believe that they are administering one of the best systems devised in the world and that India is making steady though slow progress. They do not know that a subtle but effective system of terrorism and an organised display of force on the one hand, and the deprivation of all powers of retaliation or self-defence on the other, have emasculated the people and induced in them the habit of simulation. This awful habit has added to the ignorance and the self-deception of the administrators.

The Section 124A, under which I am happily charged, is perhaps the prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by law. If one has no affection for a person or system one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote, or incite violence. But the section under which Mr. Banker and I are charged is one under which mere promotion of disaffection is a crime. I have studied some of the cases tried under it, and I know that some of the most loved of India's patriots have been convicted under it. I consider it a privilege, therefore, to be charged under that section. I have endeavoured to give, in their briefest outline, the reasons for my disaffection, I have no personal ill will against any single administrator much less can I have any disaffection towards the King's person. But I hold

it to be a virtue to be disaffected towards a Government which, in its totality, has done more harm to India than any previous system. India is less manly under the British rule than she ever was before. Holding such a belief, I consider it to be a sin to have affection for the system. And it has been a precious privilege for me to be able to write what I have in the various articles tendered in as evidence against me.

'In fact, I believed that I have rendered a service to India and England by showing in non-cooperation the way out of the unnatural state in which both are living. In my humble opinion, non-cooperation has been deliberately expressed in violence to the evil-doer. I am endeavouring to show to my countrymen that violent non-cooperation only multiplies evil, and that as evil can only be sustained by violence, withdrawal of support of evil requires complete abstention from violence. Non-violence implies voluntry submission to the penalty for non-cooperation with evil. I am here, therefore, to invite and submit cheerfully to the highest penalty that can be inflicted upon me for what in law is a deliberate crime and what appears to me to be the highest duty of a citizen. The only course open to you, the Judge, is either to resign your post and thus disassociate yourself from evil, if you feel that the law you are called upon to administer is an evil and that in reality I am innocent; or to inflict on me the severest penalty if you believe that the system and the law you are assisting to administer are good for the people of this country and that my activity is therefore injurious to the public weal!

When the Judge asked Mr. Banker if he had anything to say:

Mr. Banker answered: 'I only want to say that I had the privilege of printing these articles and I plead guilty to the charge. I have got nothing to say as regards sentence'.

The Judgement

The following is the full text of the judgement:

'Mr. Gandhi, you have made my task easy in the way by pleading guilty to the charge. Nevertheless what remains, namely the determination of a just sentence, is perhaps as difficult a proposition as a judge in this country could have to face. The law is no respecter of persons. Nevertheless, it will be impossible to ignore the fact that you are in a different category from any person I have tried or am likely to have to try. It would be impossible to ignore the fact that in the eyes of millions of your countrymen, you are a great patriot and a great leader. Even those who differ from you in politics look upon you as a man of high ideals and of noble and of even saintly life. I have to deal with you in one character only. It is not my duty and I do not presume to judge or criticise you in any other character. It is my duty to judge you as a man subject to the law, who, by his own admission, has broken the law and committed what, to an ordinary man, must appear to be grave offence against the State. I do not forget that you have consistently preached against violence and that you have on many occasions, as I am willing to believe, done much to prevent violence. But having regard to the nature of your political teaching and the nature of many of those to whom it was addressed, how you could have continued to believe that violence would not be the inevitable consequence, it passes my capacity to understand.

'There are probably few people in India, who do not sincerely regret that you should have made it impossible for any Government to leave you at liberty. But it is so. I am trying to balance what is due to you against what appears to me to be necessary in the interest of the public. And I propose in passing sentence to follow

the precedent of the case in many respects similar to this case that was decided some twelve years ago. I mean the case against Bal Gangadhar Tilak under the same section. The sentence that was passed upon him as finally stood was a sentence of simple imprisonment for six years. You will not consider it unreasonable, I think, that you should be classed with Mr. Tilak, i.e., a sentence of two years in simple imprisonment on each count of the charge, six years in all, which I feel it my duty to pass upon you. And I should like to say in doing so that if the course of events in India should make it possible for the Government to reduce the period and release you, no one will be better pleased than I.'

The Judge to Mr. Banker: 'I assume you have been to a large extent under the influence of your chief. The sentence that I propose to pass upon you is simple imprisonment for six months on each of the first two counts, that is to say, simple imprisonment for one year and a fine of a thousand rupees on the third count, with six months' simple imprisonment in default.'

Mr. Gandhi's Reply

Mr. Gandhi said: 'I would say one word. Since you have done me the honour of recalling the trial of the late Lokmanya Bal Gangadhar Tilak, I just want to say that I consider it to be the proudest privilege and honour to be associated with his name. So far as the sentence itself is concerned, I certainly consider that it is as light as any judge would inflict on me, and so far as the whole proceedings are concerned, I must say that I could not have expected greater courtesy.'

'Then the friends of Mahatma Gandhi crowded round him as the Judge left the court and fell at his feet. There was much sobbing on the part of both men and women. But all the while Mr. Gandhi was smiling and giving encouragement to everybody who came to him. Mr. Banker also was smiling and taking the whole trial in a light-hearted way. After all his friends had taken leave of him, Mahatma Gandhi was taken out of the court to the Sabarmati Jail. And thus the great trial ended.' □

(From the account of an eye witness)